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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

VICTORIA MESSINA,
Plaintiff,

vs.

ALBERTSON'S LLC,
Defendant.

Case No. 2:17-cv-00274-KJD-CWH

REPORT AND RECOMMENDATION

12 Presently before the court is Plaintiff Victoria Messina's motion for summary judgment
13 (ECF No. 21), filed on September 12, 2017. Defendant Albertson's LLC has not yet filed a
14 response.

15 Albertson's recently moved to withdraw its deemed admissions under Rule 36(b) of the
16 Federal Rules of Civil Procedure due to an issue with service of Messina's requests for admissions.
17 (Mot. to Withdraw Deemed Admissions (ECF No. 19).) Messina opposed the motion, and filed a
18 counter motion for summary judgment based on Albertson's failure to respond to the requests for
19 admissions, arguing that the failure to respond to the requests for admissions left no material fact
20 undisputed. (Resp. & Countermot. (ECF Nos. 20, 21).) At the hearing held on September 26,
21 2017, the court granted Albertson's motion to withdraw its deemed admissions. (Mins. of
22 Proceedings (ECF No. 28).) Thus, it appears to the court that Messina's motion for summary
23 judgment is moot.

24 The court therefore recommends that Messina's motion for summary judgment (ECF No.
25 21) be denied as moot.


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NOTICE

This report and recommendation is submitted to the United States district judge assigned to
this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation may

1 file a written objection supported by points and authorities within fourteen days of being served
2 with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely objection may
3 waive the right to appeal the district court's order. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir.
4 1991).

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6 DATED: September 28, 2017

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10 **C.W. Hoffman, Jr.**
11 **United States Magistrate Judge**
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